IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

RP.No. 875 of 2007(D)

AGAINST THE JUDGEMENT IN WA.2639/1999 Dated 06/10/2003
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REVIEW PETITIONER/APPELLANT IN W.A.

P.V.THOMAS, S/O. LATE VARKEY,
VENGATTU, CHAVARAGIRI, PALAVAYAL P.O.,
KASARAGOD DISTRICT.

BY ADV. SRI.V.C.JAMES

RESPONDENTS/RESPONDENTS IN W.A.
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1. THE SPECIAL TAHSILDAR,
LAND ACQUISITION, (NAVAL ACADEMY), KANNUR.

2. THE DISTRICT COLLECTOR,
KANNUR.

BY SR.GOVERNMENT PLEADER SMT.MEERA

THIS REVIEW PETITION HAVING COME UP FOR ORDERS ON 20/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

C.M.Appln.No.391 of 2007 &
R.P.No.875 of 2007 in
W.A.No.2639 of 1999

Dated, this the 20th day of September, 2007

ORDER

H.L.Dattu, C.J.

There is a delay of nearly 1338 days in filing the review petition against the orders passed by this Court in W.A.No.2639 of 1999 dated 6th October, 2003.

2. For condonation of the delay in filing the review petition, the petitioner has filed an application under Section 5 of the Limitation Act. Along with the application an affidavit is also filed. In paragraph 2 of the affidavit the review petitioner has stated as under:

> "There is a delay of 1338 days occurred in filing the review petition. The delay so much days happened in the following manner. My counsel has applied for the certified copy of the judgment. He has received the judgment and this fact has been intimated to me by my counsel. But unfortunately after few days the case bundle was found missing. Though hectic search was made to trace the bundle it could be traced immediately. But search was being made persistently in right earnest. At last it was found out on 3.7.2007. But in the bundle there was no copy of the judgment. Therefore application dated 3.7.2007 was filed to get a certified copy again. The certified copy was received from the office of this Hon'ble Court on 16.7.2007. Then this fact was intimated to me by my counsel. Thereupon I instructed my counsel to file the review petition. Counsel has prepared the review petition after perusing the records. The review application is thus filed today. The delay of so much days has occurred in the above circumstances. It is not caused for any reason of laches or negligence on my part and it is only due to the circumstances stated above. The cause of delay on account of circumstances beyond the control of the petitioner."

3. We have carefully gone through the explanation offered by the review petitioner for condoning the delay in filing the review petition. Having

considered the explanation so filed, we are of the opinion that the explanation is fully unsatisfactory. Therefore, the application requires to be rejected and it is rejected.

3. Consequently, the review petition also stands rejected.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns